IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE.

WRIT PETITION NO. 1270 OF 2006.

Rameshchandra B. Shah ... Petitioner.
V/s.
Municipal Corporation of
Gr. Mumbai. ... Respondent.

Shri R.B. Jain i/b M/s Legal Juris for the petitioner.

Ms. Nisha A. Dabhade for the respondent.

CORAM : V.C.DAGA, J.

DATED : 14.3 .2006.

P.C. :

. Rule returnable forthwith. By consent taken up for final hearing.

. This petition is directed against the order dated 1.2.2006 passed by the learned Judge of the City Civil Court, Mumbai. The Learned Judge directed the plaintiff to lead evidence through the Power of Attorney Holder. The said direction is contrary to the law laid down by the Apex Court in the case of **Janki Vashdeo Bhojwani vs.Indusind Bank Ltd.- AIR 2005 SC 439** and followed by this Court in the case of **Vasantrao Sawalaram Bhosale vs. Vithal Tukaram Kadam 2006(1) Bom.C.R. 448.** In that view of the matter, impugned order is unsustainabl.The same is accordingly set aside.

2. The trial Court to direct the Court Commissioner to record evidence pursuant to the order dated 3.10,2005. Petition stands disposed of in terms of this order with no order as to costs.

(V.C.DAGA,J.)